

# Congressional Asian Pacific American Caucus

108<sup>th</sup> Congress Congressman Michael M. Honda, Chair

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## **Honda: New Rules Will Harm Undocumented Immigrants** *CAPAC, CHC Join in Protest Letter to President Bush*

Washington, DC – **US Rep. Mike Honda** (D-San Jose), Chair of the Congressional Asian Pacific American Caucus, today joined his colleagues in the Congressional Hispanic Caucus in sending a letter to the Bush Administration expressing strong opposition to proposed federal rules concerning funding of emergency health services for undocumented immigrants.

The rules include a “patient-based documentation approach” that would require hospitals to request and maintain information about a patient’s immigration status to access federal reimbursement for the costs of providing emergency health care to undocumented immigrants.

Rep. Honda was joined by twenty other congressional colleagues, representing CAPAC and CHC, in signing the letter.

The Bush proposal was issued on July 22, 2004, as part of the Administration’s proposed implementation for Sec. 1011 of the new Medicare law (Public Law 108-173), which authorized \$1 billion for payments to health care providers to pay for the uncompensated costs associated with providing emergency health care services to undocumented immigrants.

*Below is the text of the letter sent to the Centers for Medicare and Medicaid Services, the Department of Health and Human Services, and President Bush:*

On behalf of the Congressional Hispanic Caucus and the Congressional Asian Pacific American Caucus, we write to express our strong opposition to the Centers for Medicare and Medicaid Services’ (CMS) proposed implementation of Sec. 1011 of the Medicare Prescription Drug, Improvement and Modernization Act (Public Law 108-173) concerning federal funding of emergency health services furnished to undocumented immigrants.

In particular, we strongly oppose the proposal’s “patient based documentation approach” that would require health care providers to request information about a patient’s citizenship status, include that information in the patient’s file, and maintain that

information on site. Health professionals in our nation's hospitals are trained to be caregivers - not enforcers of federal immigration laws. This requirement would take doctors and nurses away from their work of caring for patients and create additional administrative costs for already financially strained health care facilities. Instead, you could reexamine the "proxy" methods you rejected in your proposed implementation approach or adopt another method that calculates hospital payments under Sec. 1011 without directly asking patients about their immigration status.

We believe the CMS proposal will also lead to discriminatory treatment of Latino, Asian and Pacific Islander patients in hospitals. For example, health care providers may only ask citizenship questions of patients they believe "look" like immigrants. Clearly, under Title VI of the Civil Rights Act, this would violate the rights of Latinos, Asian Americans, and Pacific Islander Americans or any other patients who are targeted for questioning.

Furthermore, we are troubled by the lack of enforceable confidentiality protections for patients in your proposed implementation approach. We strongly recommend that you implement a policy that prohibits eligible hospitals and health care providers under section 1011 from sharing personal or identifying information about undocumented patients with any outside entity or agency. The policy should also prohibit the use of patient information for any purpose other than to provide needed care to the undocumented patient.

Without an explicit policy on confidentiality, undocumented immigrants will be deterred from seeking emergency health services out of fear that their information will be shared with law enforcement or immigration authorities. This fear could place the health and well-being of both the patient and, depending on the nature of the emergency, the community at risk - impacting the nation's public health.

Finally, we note that earlier this year the U.S. House of Representatives overwhelmingly rejected the concept of requiring health care workers to seek the immigration status of patients during its consideration of a broader bill concerning health care services for immigrants, the Undocumented Alien Emergency Medical Assistance Amendments of 2004 (H.R. 3722). This bill was defeated in the House by a vote of 88-331 on May 18, 2004.

We urge you to reevaluate your proposed implementation of Sec. 1011 and issue a new approach that more appropriately reflects the intention of the provision to provide financial assistance to hospitals for the uncompensated costs associated with providing health care services for undocumented immigrants.